



Environmental Review Appeals Commission

Mike DeWine, Governor

*Testimony of Melissa Shilling
Chair of the
Environmental Review Appeals Commission
Before the
House Natural Resources Committee*

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Good morning, Chairman Jones, Vice-Chair Robb Blasdel, Ranking Member Rogers, and Members of the House Natural Resources Committee. My name is Melissa Shilling, Chair of the Environmental Review Appeals Commission (“Commission”). I am pleased to appear before you today to testify on the Commission’s 2026-2027 Biennial Budget.

Introduction

The Environmental Review Appeals Commission has exclusive, original jurisdiction over appeals of specified final actions taken by the Director of the Ohio Environmental Protection Agency, the Director of the Ohio Department of Agriculture, the State Fire Marshal, the State Emergency Response Commission, and approved county and local boards of health.

The Commission is a three-member body appointed by the Governor to staggered six-year terms. Members of the Commission possess significant litigation experience, environmental expertise, and extensive knowledge of the complex state and federal environmental laws.

Decisions of the Commission are directly appealable to the courts of appeals. Thus, the Commission effectively sits in lieu of a court of common pleas for environmental appeals throughout the state, allowing for the development of a consistent, statewide body of environmental law for Ohio. This statutorily created system provides the regulated community and interested citizens with an important and cost-effective mechanism for independent resolution of highly technical and scientifically complex environmental actions taken by state and local agencies within the Commission’s jurisdiction.

The vast majority of the Commission's cases arise from final actions taken by the Director of the Ohio EPA, although we continue to receive cases arising from actions taken by the Director of the Ohio Department of Agriculture, the State Fire Marshal, and county and local boards of health. The specific make-up of the Commission's case load varies with new developments in industry standards and changes in the regulatory landscape within the Commission's jurisdiction.

The Appeals Process

After an appeal is filed, the parties frequently attempt to resolve the matter through negotiation. If initial negotiations are unsuccessful, the parties request a case management schedule, which ranges from 9-12 months in length and includes specified periods for discovery, as well as for filing pre-hearing motions. During this process, the Commission reviews and issues written decisions on dispositive motions and a wide variety of discovery and evidentiary disputes.

Ultimately, if the parties are unable to resolve the matter, the Commission generally conducts a de novo hearing and issues a final opinion. If, however, on the rare occasion an adjudication hearing was held at the agency below, the Commission conducts an appellate-styled review, including hearing oral arguments, and issues a decision on the record.

The Commission is a "hands on" commission; it employs no hearing examiners. The Commission's final opinions are legally and technically complex and require extensive research and drafting. The opinions are statutorily required to contain findings of fact and conclusions of law, which generally range from 30 to well over 100 pages in length.

The Commission's staff consists of an Executive Director and a Program Administrator/Staff Attorney, both of whom have legal and environmental knowledge and expertise.

Caseload

Currently, the Commission's docket reflects 64 active cases. Notably, the Commission has no backlog of cases awaiting a decision or ruling.

The number of appeals filed, as well as the number of hearings held each year, is dependent upon the number and type of final actions issued by the agencies whose actions are subject to the Commission's jurisdiction.

2026-2027 Biennial Budget Request

The Commission is a one line-item agency funded solely by the general revenue fund. The budget request of \$745,000 for state fiscal year 2026 and \$795,000 for state fiscal year 2027 will allow the Commission to satisfy its statutorily mandated duties.

The majority of the Commission's expenses arise from services obtained from the Department of Administrative Services ("DAS"), such as information technology support and office rent.

Importantly, the Commission relies on continuous improvement principles to increase its efficiency and organization. Application of these principles allows the Commission to stay within its budget and ensures responsible stewardship over the funding it receives.

Over ten years ago, the Commission began transforming its operations through digital modernization. Since implementing e-filing in 2018, we've created a seamless digital experience for all stakeholders. This system proved invaluable during the pandemic, enabling uninterrupted operations and service delivery. Today, regulated entities, the public, and parties who appear before the Commission rely almost exclusively on our e-filing and docketing system to interface with the Commission.

We are now in the process of upgrading these systems to enhance security and further streamline functionality. These improvements will strengthen data protection while reducing processing times, benefiting both our internal workflows and the people we serve. The system has become the backbone of our operations. Proper maintenance is essential to protect against evolving security threats while maximizing efficiency and accessibility in service to the public. Our stakeholders depend on secure, round-the-clock access to case files and filing capabilities, making this investment vital to our public service mission.

The Commission is committed to fiscal responsibility while maintaining the robust digital infrastructure that our stakeholders depend on. Thus, as outlined above, it is our respectful belief that the Commission has no program expenses that should be altered. And importantly, no other funding is available to the Commission to offset its expenses.

In the upcoming biennium, the Commission will continue to build on the recent advancements established during its last budget appropriation and will remain dedicated to the timely, efficient, and non-partisan administration of quasi-judicial appellate review of final actions within its jurisdiction.

Thank you for the opportunity to testify. I am pleased to answer any questions you may have regarding the Commission's budget.